

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4903 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

YOGESHBHAI GOVINDBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR NITIN M AMIN for Petitioners
MR SA PANDYA, APP for Respondent No. 1
MR HD CHUDASAMA for Respondent No. 2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 10/02/99

ORAL JUDGEMENT

Heard learned counsel for the petitioners, Mr.Nitin A. Amin, on behalf of the State, learned APP, Mr.S.A.Pandya and on behalf of respondent No.2-original complainant, learned counsel Mr.Chudasma.

As far as petitioner No.1 is concerned, Mr.Amin,

learned counsel for the petitioners does not press this petition at this stage.

As far as petitioner No.4 is concerned, it reflects from the complaint itself that her name is not mentioned in the complaint as an accused. Even according to the complainant, she is a victim and, therefore, she is not a necessary party to this proceedings.

Petitioner No.2 is the father of accused No.1 and petitioner No.3 is the maternal uncle of accused No.1. I have verified the complaint. If the complaint is accepted as it is, then also, no averments worth the name are mentioned against the present petitioners Nos.2 and 3 in the said complaint. Learned counsel for the original complainant, Mr.Chudasma also could not show any averments in the complaint against the petitioner Nos.2 and 3. As per para 4 of the complaint, present petitioner Nos.2 and 3 were not there at the time of alleged incident. After considering the arguments of learned counsel for the respective parties, I am of the opinion that the present complaint, as far as present petitioner Nos.2 and 3 are concerned, is required to be quashed and set aside.

The present complaint being Inquiry Case No.196 of 1998 dated 6-11-1998 filed by the present respondent No.2-original complainant in the court of learned Metropolitan Magistrate, Ahmedabad, in respect of present petitioner Nos.2 and 3 is hereby quashed and set aside. As far present petitioner No.1 is concerned, Police is at liberty to investigate and submit the report in the Court as directed by the Court below. As far petitioner No.4 is concerned, no order is required to be passed, as I have stated earlier, and the same is disposed of accordingly. Interim relief granted earlier is vacated forthwith.

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